

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

MICHAEL KINCADE,

Plaintiff,

v.

MICHAEL MINEV, *et al.*,

Defendants.

Case No. 2:19-cv-02171-KJD-NJK

ORDER

Plaintiff, who is in the custody of the Nevada Department of Corrections, initiated this action with an application to proceed *in forma pauperis* and a civil rights complaint under 42 U.S.C. § 1983. (ECF Nos. 1, 1-1.) Plaintiff subsequently filed a first amended complaint, which the Court screened on February 3, 2022. (ECF Nos. 12, 13.) The Court allowed Plaintiff's claims to proceed, deferred ruling on his application to proceed *in forma pauperis*, and referred the case to the Inmate Early Mediation Program. (ECF No. 13 at 7-8.) The parties were ultimately unable to reach a settlement at mediation. (ECF Nos. 17, 20, 22.) Following mediation, Plaintiff filed a motion requesting that this case be dismissed. (ECF No. 21.)

Under Federal Rule of Civil Procedure 41(a)(1), a plaintiff may dismiss an action without a court order by filing "a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment." Fed. R. Civ. P. 41(a)(1)(A)(i). The Court grants Plaintiff's motion to dismiss this action because no responsive pleading has been filed in this case. Thus, the Court dismisses this action without prejudice.

It is therefore ordered that Plaintiff's motion to dismiss this case (ECF No. 21) is granted.

It is further ordered that this action is dismissed in its entirety without prejudice.

It is further ordered that the Clerk of the Court close this case.

1 It is further ordered that the application to proceed *in forma pauperis* without having
2 to prepay the filing fee (ECF No. 1) is granted. Plaintiff need not pay an initial installment
3 fee, prepay fees or costs, or provide security for fees or costs, but he is still required to
4 pay the full \$350 filing fee under 28 U.S.C. § 1915, as amended. This full filing fee remains
5 due and owing even though this case is being dismissed.

6 To ensure that Plaintiff pays that filing fee, it is further ordered that the Nevada
7 Department of Corrections must forward payments from the account of **Michael Kincade,**
8 **#1103955** to the Clerk of the United States District Court, District of Nevada, 20% of the
9 preceding month's deposits (in months that the account exceeds \$10.00) until the full
10 \$350 filing fee has been paid for this action. The Clerk is directed to SEND copies of this
11 order to the Finance Division of the Clerk's Office and to the attention of **Chief of Inmate**
12 **Services for the Nevada Department of Corrections**, P.O. Box 7011, Carson City, NV
13 89702.

14 DATED THIS 7th day of September 2022.

15 

16 _____
17 UNITED STATES DISTRICT JUDGE
18
19
20
21
22
23
24
25
26
27
28